UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/790,641
Filing Date: March 01, 2004
Appellant(s): MAY ET AL.

Jack G. Abid
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1-3-2008 appealing from the Office action

mailed 4-21-2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial

proceedings which will directly affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,181,956	Koskan	6-2001
US2004/0186728A1	Kuboyama et al.	9-2004

6,421,707   Miller et al.   7-2002

6,771,143   Hung   3-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1,4-5, 6-12, 13, 16-18, 20, 21, 24-26, 27, 30-32, 33-36, 38-41 are rejected

under 35 U.S.C. 103(a) as being unpatentable over Koskan (UA PAT: 6,181,956) in

view of Kuboyama et al. (US 2004/0186728, filed 1-26-2004, hereinafter Kuboyama).

Regarding claim 1, Koskan discloses a mobile wireless communication device,

comprising: a wireless transceiver (220/290, fig. 2) and a controller (240, fig. 2)

cooperating therewith for receiving text messages from the wireless communication

network (130, fig. 1), the controller being switchable between a normal message mode

and an audio message mode, a user interface device (250, fig. 2) connected to the

controller for receiving at least one of audio mode filter parameter from a user (reads on

mode selection or keyword or type identifier), and an audio output (125, figs. 1, 3)

connected to the controller, the controller, when in the audio message mode, selecting

received text messages based on at least one audio mode filter parameter, and

outputting audio messages comprising speech generated from the selected text messages via the headset output (figs. 1-4; col. 1, line 56 – col. 3, line 56).

Regarding claim 13, Koskan discloses a communication system comprising at least one mobile wireless communications device comprising: a wireless transceiver (220/290, fig. 2) and a controller (240, fig. 2) cooperating therewith for receiving text messages, the controller being switchable between a normal message mode and an audio message mode, a user interface (250, fig. 2) connected to the controller for receiving at least one audio mode filter parameter (reads on mode selection), from a user, and an audio output (125, figs. 1, 3) connected to the controller, the controller, when in the audio message mode, selecting received text messages based upon the at least one audio mode filter parameter(reads on mode selection or keyword or type identifier), and outputting audio messages comprising speech generated from the selected text messaged via the headset output, and a wireless communications network (130, fig. 1) for sending text messages to the at least one mobile wireless communication device (120; figs. 1-4; col. 1, line 56 – col. 3, line 56).

Koskan differs from claims 1 and 13 in that although he discloses the controller switching between normal message mode and audio message mode based upon a mode selection by a switch and other criteria (claim 1; col. 3 lines 9-15); he does not explicitly teach: the controller switching between normal message mode and audio message mode based upon a connection between and headset output and a headset.

However, Kuboyama discloses information service apparatus and information service method which teaches: the controller switching between normal message mode and audio message mode based upon a connection between and headset output and a headset (paragraphs: 0024-0025, 0052, and 0074).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Koskan's system to provide for the following: the controller switching between normal message mode and audio message mode based upon a connection between and headset output and a headset as this arrangement would provide, one method, among many possible methods, to automatically direct audio output to the headset based on detection of connection status of headset to the communication device as taught by Kuboyama.

Claims 21 and 27 are rejected on the same basis as claims 1 and 13.

Regarding claim 33, Koskan discloses a mobile wireless communication device comprising: a wireless transceiver (220, fig. 2) and a controller (240, fig. 2) cooperating therewith for receiving text messages from a wireless communication network (130, fig. 1), the controller being switchable between a normal message mode and an audio message mode, a user interface device (250, fig. 2) connected to the controller for receiving one audio mode filter parameter for a user (reads on mode selection or keyword or type identifier), and an audio output (125, figs. 1, 2) connected to the controller, the controller when in audio message mode, selecting the received text messages based upon at least one audio mode filter parameter (reads on mode selection or keyword or type identifier), outputting audio messages comprising speech

generated from selected text messages via the audio output (figs. 1-4; col. 1, line 56 –

col. 3, line 56).

Regarding claim 38, Koskan discloses a method for using a mobile wireless

communications device comprising a user interface, and an audio output, the mobile

wireless communication device being switchable between a normal message mode and

audio message mode, the method comprising: receiving text messages from a wireless

communications network (130, fig. 1), and receiving at least one audio mode filter

parameter from a user via the user interface device (reads on mode selection or

keyword or type identifier), switching the mobile wireless communication device

between the normal message mode and audio message mode, wherein in the audio

message mode, selecting received text messages based on one audio mode filter

parameter (reads on mode selection or keyword or type identifier), and outputting audio

messages comprising speech generated from the selected text messages via the audio

output (figs. 1-4; col. 1, line 56 – col. 3, line 56).

Koskan differs from claims 33 and 38 in that although he teaches switching

mobile communication device between normal message mode and audio message

mode based upon a mode selection by a switch and other criteria (claim 1; col. 3 lines

9-15); he does not explicitly teach: switching mobile communication device between

normal message mode and audio message mode based upon a connection between

audio output and an audio device.

However, Kuboyama teaches the following: switching mobile communication

device between normal message mode and audio message mode based upon a

connection between audio output and an audio device (paragraphs: 0024-0025, 0052, 0074).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Koskan's system to provide for the following: switching mobile communication device between normal message mode and audio message mode based upon a connection between audio output and an audio device as this arrangement would provide, one method, among many possible methods, to automatically direct audio output to the headset based on detection of connection status of headset to the communication device as taught by Kuboyama.

Regarding claims 4, 6-12, 16-18, 20, 24-26, 30-32, Koskan teaches that: headset output comprising a wireless headset output for establishing a wireless connection with a headset (125, figs. 1, 3), controller (240, fig. 1) switches between the normal message mode and the audio message mode based upon an audio message mode command provided by a user via the user interface device (250, fig. 2), text-to-speech module (reads on 260, fig. 2) cooperating with the controller to convert the selected text message to the audio messages, at least one audio message filter parameter comprises: a sender identifier, at least one keyword (col. 3 lines 9-15), user interface device comprises keypad (not shown) connected to the controller, display (252, fig. 2) connected to the controller for displaying text messages, wireless transceiver comprises a cellular transceiver (120; figs. 1-4; col. 1, line 56 – col. 3, line 56).

Koskan differs from claim 5 in that he does not teach the following: headset output comprises a headset jack for a wired headset.

However, Kuboyama teaches the following: headset output comprises a headset jack for a wired headset (paragraph: 0055).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Koskan's system to provide for the following: headset output comprises a headset jack for a wired headset as this arrangement would facilitate playing messages through a wired headset as taught by Kuboyama.

Claims 34 and 39 are rejected on the same basis as claim 5.

Regarding claims 35-36,40-41, Koskan further teaches the following: audio device comprises a wireless headset (125, figs. 1 and 3), and wherein audio output comprises a wireless headset output for establishing wireless connection with the wireless headset, controller (240, fig. 2) switches between normal message mode and audio message mode based upon an audio message mode provided by a user via the user interface (250, fig. 2; (figs. 1-4; col. 1, line 56 – col. 3, line 56).

3.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koskan in view of Kuboyama as applied to claim 13 above, and further in view of Miller et al. (US PAT: 6,421,707, hereinafter Miller).

The combination differs from claim 19 in that he does not teach the following: controller is also for generating conversion requests for selected text messages and cooperating with the wireless transceiver to forward the conversion requests to the wireless communication network, wherein wireless communication network receives the

conversion requests and further comprises a text-to-speech module for converting the selected text messages to audio messages based upon the conversion requests, and wherein the wireless communication network sends the audio messages to at least one wireless communication device.

However, Miller teaches the following: controller is also for generating conversion requests for selected text messages and cooperating with the wireless transceiver to forward the conversion requests to the wireless communication network, wherein wireless communication network receives the conversion requests and further comprises a text-to-speech module for converting the selected text messages to audio messages based upon the conversion requests, and wherein the wireless communication network sends the audio messages to at least one wireless communication device (figs. 1, 4; col. 3 lines 16-65; col. 5, line 42 – col. 6, line 40).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: controller is also for generating conversion requests for selected text messages and cooperating with the wireless transceiver to forward the conversion requests to the wireless communication network, wherein wireless communication network receives the conversion requests and further comprises a text-to-speech module for converting the selected text messages to audio messages based upon the conversion requests, and wherein the wireless communication network sends the audio messages to at least one wireless communication device as this arrangement would facilitate centralized location for processing messages to satisfy user requirements as taught by Miller.

4.   Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Koskan in view of Kuboyama as applied to claims 33 and 38 above, and further in

view of Hung (US PAT: 6,772,143, filed 1-2-2001).

The combination differs from claims 37 and 42 in that although he discloses at least

one audio message filter parameter comprises at least one of keyword or message

type identifier (col. 3 lines 9-15); he does not explicitly teach: audio message filter

parameter which is sender identifier.

However, Hung teaches setting up various message filter parameters including

sender identifier (abstract; col. 10 lines 52-65).

Thus, it would have been obvious to one of ordinary skill in the art at the time

invention was made to modify the combination to provide for the following: audio

message filter parameter which is sender identifier as this arrangement would

facilitate to sort messages according to various message filters to satisfy user needs

as taught by Hung.

(10) Response to Argument

A.   THE REJECTION OVER THE KOSKAN PATENT IN VIEW OF KUBOYAMA ET

AL. APPLICATION

Rejection of independent claims 1, 13, 21, 27, 33, and 38 under 35 USC 103(a)

as being obvious over Koskan (UA PAT: 6,181,956) in view of Kuboyama et al. (US

2004/0186728, filed 1-26-2004, hereinafter Kuboyama): Regarding rejection of the

claims using the above references, Appellant alleges that the examiner's examiner

proposed combination of Koskan and Kuboyama et al. is improper and gives various

reasons for it on pages 10-12 of his appeal brief which examiner finds it not persuasive

as will be explained below.

Appellant further argues that "The examiner correctly notes that Koskan fails to

disclose switching between the normal message mode and the audio message mode

based upon a connection between the headset output and headset, as recited by

independent claims, and looks to Kuboyama et al. to supply this deficiency. Kuboyama

et al. discloses a communication device comprising a headset coupled to internal

circuitry by either a wire or a wireless connection. (Paragraph 55). Determination

means detects when the headset is connected to the communication device and

outputs text information to display when there is no connection, and to the headset

when there is a connection. Kuboyama et al. teaches that this particular functionality is

intended to avoid accidental disclosure of private text information over the onboard

audio speakers of the communication device in a public place". Appellant further

argues that "The examiner contended that the person of ordinary skill in the art would

be motivated by "the arrangement [ ] providing one method among many possible

methods, to automatically direct the output to the headset on detection of connection

status of headset to the communication device as taught by Kuboyama ". Appellant

submit that the Examiner's proposed combination of Koskan and Kuboyama et al. is

improper because the reference teaches away from selective combination, and because

the modification of Koskan change its principle of operation. More particularly, Koskan

discloses that "[t] he device operating mode is preferably user selectable." (col. 2, lines

5-6). Koskan discloses … Appellants submit that the person of ordinary skill in the art

would be taught away from modifying Koskan switch between modes automatically

based upon the connection to the headset since Koskan teaches that user controlled

toggling between modes is desired". Regarding this, Appellant is making arguments

based on selective reading of Koskan reference in order to make it look that the person

of ordinary skill in the art would be taught away from modifying Koskan switch between

modes automatically based upon the connection to the headset. Koskan not only

teaches that user can switch modes of operation between text and audio, but he also

teaches switching automatically as described here: In one embodiment, the base device

automatically switches the second operating mode based on some criteria such as on

keyword present in the received message, or a message type indicator (col. 3 lines 11-

15). This clearly demonstrates that Koskan system is capable of automatically

switching between modes. Therefore one of ordinary skill would be motivated to

combine teachings of Kuboyama which teaches: the controller switching between

normal message mode and audio message mode based upon a connection between

headset output and headset (paragraphs: 0024-0025, 0052, 0074) with Koskan to reject

appellants claim limitations recited in the independent claims.

Regarding rejection of the claims using the above references, Appellant argues

on page 13 of his appeal brief that Koskan and Kuboyama et al. address different

problems, and , for this reason also, would lead the person of ordinary skill in the art

away from such a selective combination. Regarding this, both references teach

receiving text information or message, and presenting the user with text or audio

depending on the user choice and operating modes. For example, Koskan teaches

receiving message and presenting the message in human readable form or audible

version depending upon operating mode and user's choice i.e., user selected mode or

automatic mode (fig. 4, col. 3 lines 16-50; col. 3 lines 11-15). Kuboyama et al. also

teaches receiving text information such as email message, Web information or like from

the network and presenting the text information on a display or converting text message

to audio form and outputting to headset when it is determined headset is connected,

i.e., user's choice in as much as the user has to decide to connect the headset to the

information service apparatus as shown in fig. 1 (fig. 1, fig. 2; paragraph: 0052, 0055).

In light of this one of ordinary skill in the art at the time invention was made would be

motivated to combine Koskan with Kuboyama et al. to reject appellant's claims as both

these references teach receiving messages and presenting them to the user in either

text form or audio form depending upon user choice and user convenience.

Regarding rejection of the claims, Appellant further argues that "The automatic

switching of Kuboyama et al. appears to be inapplicable to the purpose of Koskan, i.e.

switching when environmental or physical factors prevent user access to the device,

since these same factors would prevent the user from connecting the headset to the

communication device, in a wireless communication embodiments, by reducing physical

displacement between the headset and communication device, and in wired

embodiments, by coupling a wire between the headset and the communication device".

Regarding this, it would not be an insurmountable problem for one of ordinary skill in the

art to connect an headphone in wireless environment to base deice (120, fig. 1) of

Koskan. Even applicant's sole disclosure of this feature is in paragraph (0048) which

says: the device automatically switches to this mode when he connects a headset (e.g.,

Bluetooth enabled headset) which is again a wireless headset in a wireless

environment.   Even in Kuboyama et al. reference user has to connect the headset

(103, fig. 1) to the information service apparatus in order for the system to determine

that audio output is device is connected, and then output information. In light of this

examiner respectfully submits to BPAI that Koskan can be combined with Kuboyama et

al. in order to reject of appellant's claims.

Appellant in paragraphs 1-2 on page 14 of his appeal brief is simply rehashing

same arguments as addressed already by the examiner.

In view of this, Examiner respectfully submits to the BPAI that independent

claims 1, 13, 21, 27, 33 are unpatentable under 35 USC 103(a) as being obvious over

Koskan in view of Kuboyama et al.

B.   **The rejection over the Koskan patent in view of Kuboyama et al.**

application and the Miller et al. patent

Rejection of claim 19 under 35 USC 103(a) as being obvious over Koskan in

view of Kuboyama et al. and further in view of Miller et al.: regarding rejection of

dependent claim 19, Appellant's arguments are tied to independent claims being

patentable which are not as explained above.

C.   **The rejection over the Koskan patent in view of Kuboyama et al.**

application and the Hung patent

Rejection of claims 37 and 42 under 35 USC 103(a) as being obvious over

Koskan in view of Kuboyama et al. and further in view of Hung patent: regarding

rejection of dependent claims 37 and 42, Appellant's arguments are tied to independent

claims being patentable which are not as explained above.

(11) APPENDIX B—EVIDENCE APPENDIX

None

(12) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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